# IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

#### COMPLETE TITLE OF CASE

ST. LOUIS METROPOLITAN TOWING,

Appellant,

v.

DIRECTOR OF REVENUE,

Respondent.

### **DOCKET NUMBER WD77241**

## MISSOURI COURT OF APPEALS WESTERN DISTRICT

**DATE:** September 2, 2014

### **APPEAL FROM**

The Circuit Court of Cole County, Missouri The Honorable Daniel R. Green, Judge

### **JUDGES**

Division I: Pfeiffer, P.J., and Hardwick and Mitchell, JJ.

CONCURRING.

### **ATTORNEYS**

David F. Barrett Jefferson City, MO

Attorney for Appellant,

Chris Koster, Attorney General Linda Lemke, Assistant Attorney General Jefferson City, MO

Attorneys for Respondent.



# MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

ST. LOUIS METROPOLITAN	N TOWING,	)	
		)	
	Appellant,	)	
<b>v.</b>		)	<b>OPINION FILED:</b>
		)	September 2, 2014
DIRECTOR OF REVENUE,		)	•
		)	
	Respondent.	)	

WD77241 Cole County

**Before Division I Judges:** Mark D. Pfeiffer, Presiding Judge, and Lisa White Hardwick and Karen King Mitchell, Judges

St. Louis Metropolitan Towing appeals the Judgment of the Circuit Court of Cole County, Missouri, affirming the Administrative Hearing Commission's ("AHC") dismissal of Metro Towing's petition for review regarding the Director of Revenue's letter notifying Metro Towing that its application for a salvage dealer license had already been denied.

The Director had denied a January 2013 application by Metro Towing due to the partnership's failure to meet the requirement of good moral character because its two owners each pleaded guilty to income tax evasion. Metro Towing did not appeal the denial to the AHC. Instead, in June 2013, Metro Towing re-submitted its application in a form substantially similar to its January application. The Director returned the June application and check to Metro Towing and notified Metro Towing that the Director had already received the original January application to renew, which had been denied.

Metro Towing filed an administrative review request with the AHC to appeal the Director's June letter. The AHC dismissed Metro Towing's request for review on the grounds that the June letter was not a "decision of the Director" from which Metro Towing may appeal under section 621.050. Metro Towing filed a petition for administrative review. The circuit court upheld the AHC's decision. Metro Towing appeals.

#### AFFIRMED.

#### **Division I holds:**

To be entitled to judicial review of a final agency decision, section 536.100 requires the aggrieved party to exhaust all administrative remedies provided by law. Under section 621.050.1, any person or entity has the right to appeal to the AHC from any decision made by the Director by filing a petition with the AHC within thirty days after the decision of the Director is placed in the United States mail or within thirty days after the decision is delivered, whichever is earlier. Metro Towing opted not to exercise its right under section 621.050 to appeal the Director's decision rejecting Metro Towing's January application for a salvage dealer's license to the AHC.

Metro Towing presented no new information in its June application for the Director's consideration, particularly regarding Metro Towing's ownership. By submitting the June application, Metro Towing attempted to bypass the AHC and the procedures mandated by the General Assembly for judicial review.

Metro Towing had an adequate remedy to challenge the Director's denial of its January application for a salvage dealer license, but it let the time for seeking that remedy expire. It cannot revive its action by filing a second substantially identical application. Metro Towing's failure to appeal the Director's denial of its January application to the AHC rendered the Director's decision final and not susceptible to collateral attack.

Opinion by: Mark D. Pfeiffer, Presiding Judge

September 2, 2014

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